IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 16078 of 2005

Between:

1 Penmetsa Eswar Raju, S/o.Venkat Narsimha Raju,
R/o.Dirusumarru,Bhimavaram Mandal, West Godavari district.
2 Penmetsa Ramavathi, W/o.Eswara Raju,
R/o.Dirusumarru,Bhimavaram Mandal, West Godavari district.

..... PETITIONER(S)

AND

1 The Secretariat, Govt of A.P.,Rep by its Secretary, Revenue Department,
Hyderabad.
2 District Collector, W.G.District, Eluru.
3 Mandal Revenue Officer, Bhimavaram, Bhimavaram Mandal, W.G.district.
4 Assistant Engineer, Irrigation Section, Bhimavaram, W.G.District.
5 Kalidindi Satyanarayana Raju, S/o.Viswanadha Raju,
R/o.Dirusumarru Village, Bhimavaram Mandal, W.G.District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or mandamus or any other appropriate writ, order or direction declaring the impugned action of the 3rd respondent in seeking to remove the tooras (cement poles) fixed by them in the irrigation bode for taking men, agricultural implements, tractors etc., into land in R.S.Nos.378/1 and 380/2, in Dirsumarru Village, Bhimavaram Mandal, West Godavari District, pursuant to his orders dt.15-7-2005 without following due process of law as illegal, arbitrary etc.,

Counsel for the Petitioner: MR.V.V.L.N.SARMA

Counsel for the Respondents 1 to 3: G.P. FOR REVENUE

Counsel for the Respondent No.4: G.P. FOR IRRIGATION

Counsel for the Respondent No.5: NONE APPERED

The Court made the following:

ORDER:

This writ petition is filed seeking a declaration that the impugned action of the 3rd respondent in seeking to remove the cement pipes laid in the irrigation channel for taking men, agricultural implements, tractors etc., into their land in R.S.Nos: 378/1 and 300/2 in Dirusumarri village, Bhimavaram , West Godavari District, pursuant to his orders dated 15.07.2005 without following due process of law, is illegal and arbitrary.

The case of the petitioners is that 2nd petitioner is the wife of 1st petitioner and they are the absolute owners and possessors of the land in an extent of Ac.5.12 cs in R.S.Nos:378/1 and 380/2 of Dirusumarru village, Bhimavaram Mandal, West Godavari District. To the west of their land, Devarapampu Irrigation channel is running from south to north. The ryots on either side of the said channel have placed cement pipes across the channel at different places to cross the same. The petitioners made a representation to the 4th respondent on 13.06.2005 seeking permission to lay pipes across the above irrigation channel at various places. After considering the representation submitted by them, the 4th respondent accorded permission through his proceedings dated 15.06.2005 for laying the pipes in the irrigation channel at their own expenses. Pursuant to the above, they laid cement pipes of a diameter of ½ yard in the irrigation channel for the purpose of crossing it and enter into their land of Ac.8.00 on the west of the channel. The

5th respondent has sent a representation to the 3rd respondent that the cement pipes

laid across the irrigation channel are causing obstruction to the free flow of water to his land. Basing on the representation, the 3rd respondent has issued the impugned notice dated 15.07.2005 directing the petitioners to remove the cement pipes. On receipt of the said notice, the petitioners submitted a detailed reply on 18.07.2005 to the 3rd respondent. The 3rd respondent having received the reply, has not passed any orders.

Having regard to the fact that the third respondent issued notice dated 15-07-2005 to which reply has been submitted by the petitioners and in view of the disputed questions of fact involved in the writ petition, I am not inclined to adjudicate the merits of the case. However, considering the facts and circumstances of the case, I deem it just and appropriate to dispose of the writ petition with a direction to the 3rd respondent to consider the reply to the notice submitted by the petitioners and after giving reasonable opportunity to the contesting parties, pass appropriate orders in accordance with law, within a period of four weeks from the date of receipt of this order. Till such time, the respondents are directed not to remove the cement pipes across the said irrigation channel.

The writ petition is accordingly disposed of.

22-07-2005

mrkr

To

1 The Secretariat, Govt of A.P.,Rep by its Secretary, Revenue Department, Hyderabad.
2 The District Collector, W.G.District, Eluru.
3 The Mandal Revenue Officer, Bhimavaram, Bhimavaram Mandal, W.G.district.
4 The Assistant Engineer, Irrigation Section, Bhimavaram, W.G.District.
5 Two C.Cs to the Government Pleader for Revenue, High Court Buildings, Hyderabad.

6 Two C.Cs to the Government Pleader for Irrigation, High Court of A.P.Hyderabad.

7 Two C.D.copies.